President.—From what I heard, there is no necessity for appointing a Chairman, and let the matter stand where it is. I don't propose to fill up the Chairman's place in the Select Committee.

What is the next item? Are we to continue yesterday's discussion?

Mr. T. K. Krishna Menon.—Yes, Sir.

Mr. C. A. Ouseph.—A point of order, Sir. Suppose a Member of the Committee wants to resign, to whom should the letter of resignation be sent?

President.—Let him have the Membership.

Mr. C. A. Ouseph.—Suppose I want to resign. I do not want to be a Member.

President.—You think out your own means for that.

Mr. A. B. Salem.—Please consult a lawyer.

The Usurious Loans Bill.

President.—The next Bill is the 'Usurious Loans Bill'. The next amendment is to clause 3, 2 (a). The clause as it is:—"In this section 'excessive' means in excess of that which the court deems to be reasonable having regard to the risk incurred as it appeared or must be taken to have appeared to the creditor at the date of the loan." Clause 3, as amended by Mr. Kochunni Menon is as follows :—"In this section 'excessive' means in excess of 12 per cent per annum."

Mr. V. K. Kochunni Menon.—The object of the amendment is this. The provisions of the Regulation are as vague as can be; for the settlement of every minute thing we must have recourse to court. If in this respect there is some definiteness we can avoid some litigation at least.

President.—Is it not copied from the British Act?

Mr. V. K. Kochunni Menon.—It is copied from the British Act. That is why I am not bold enough to criticise the language. See how vague the provisions are. Excessive means that which the court decides to be excessive ; unfair that which the court deems unfair. These are the practical definitions. The powers of the court are so wide that nothing can be finally settled without recourse to a court of law. There cannot be any finality if any transaction is settled between the parties. If old accounts are settled and a fresh document taken that can be re-opened again within a period of six years. My amendment, if allowed, would restrict the court's right to interfere in cases in which the rate of interest stipulated is more than 12 per cent, that is to say, if the interest is only 12 per cent or less, the courts cannot interfere with the contract.

President.—The court cannot decree less than that.

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Mr. V. K. Kochunni Menon.—The court should not have power to interfere, if the interest is not more than 12 per cent. If the interest be above 12 per cent the courts may interfere.

President.—So you want to make it definite. As the section now stands, it is left to the court to decide which interest, whether more than 12 per cent or less than 12 per cent, is excessive.

Mr. V. K. Kochunni Menon.—Some Judges may consider 6 per cent fair while another Judge may take the view that 15 per cent may be a fair rate. To have some definiteness with regard to that at least seems to me necessary; and as 12 per cent is the ordinary rate of interest called the 'മുടേലാഭം' in these parts, I think that may be fixed as the minimum rate of interest. The amendment is to omit the whole sub-clause c.

President.—Who seconds the amendment?

Mr. A. B. Salem.—I second it. I think, Sir, the whole Regulation is very much ill-conceived and would bring a lot of difficulty in the way of the circulation of money in the State. No transaction that has been closed can be said to be closed if one or the other party thinks in his head to go into the court within six years, and no doubt, the relief against usury should be granted. But this provision, as it stands, re-opens all transactions that stand close to it to a period of 5 or 6 years back. That will mean unnecessary opening of litigation, and I am sure that no man would be prepared to lend money to others on any rate of interest if he feels that even after he closes the transaction he will have to submit himself to the judgment of the court. Under these circumstances there will be a good deal of difficulty.

Mr. C. A. Kunjunni Raja.—The removal of the word "excessive" will clear the difficulty. In such a case all these elements will have to be considered. I think it is better to have a separate provision. It shall only apply to those cases where the interest is above 12 per cent.

Mr. N. Padmanabha Menon.—A note is quite enough.

President.—That will be sufficient.

Mr. K. Achyuta Menon.—The very point that I am going to refer is that we cannot take away the definition of the word 'interest'. Two conditions are necessary in order that the court may interfere with the contract. One is that the rate of interest must be excessive and the other is that the transaction must be substantially unfair.

Mr. V. K. Kochunni Menon.—I have no objection if a note is introduced. In my opinion clause c and a portion of clause 2 have to be retained.

President.—I thought the Select Committee would have considered it.

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Mr. K. Achyuta Menon.—With regard to the fixing of a minimum, the matter was not considered. The matter was left to the discretion of the House.

Mr. V. K. Kochunni Menon.—There are several Regulations by which an interest of 6 per cent is only allowed.

President.—In British they do not fix the rate of interest.

Mr. V. K. Kochunni Menon.—Why should we borrow everything?

President.—Whenever discretion is vested with the courts we must presume that they will give it the necessary weight.

Mr. V. K. Kochunni Menon.—One Judge will say 6 per cent is fair, another will say 8 per cent is fair and so on.

President.—There are three Judges.

Mr. V. K. Kochunni Menon.—Who will lend money without knowing what he will get back when the money is returned? One must be sure of the least amount that he gets as interest and it will not be in the power of anybody to reduce that interest.

Mr. K. Achyuta Menon.—I fully endorse that view. It will not be proper if we leave it to the decision of the court wholly as the personnel of Judges will be changing.

I support this amendment subject to the retention of that clause. The amendment is " in excess of 12 per cent". Interest above 12 per cent will be considered excessive by the court. Two conditions must be satisfied. The first condition is with regard to the rate of interest. Even if the interest exceeds 12 per cent the court need not hold that it is excessive. The court has to consider the circumstances referred to in clause c. I think some addition is necessary to this clause.

President.—What is the addition?

Mr. K. Achyuta Menon.—Under section 2 A "Excessive" means "In excess of 12 per cent', which should be added. That is the amendment proposed. I will put it like this. "Excessive" means "in excess of 12 per cent per annum and in excess of that". The conditions necessary are (1) it must exceed 12 per cent and (2) the court should decide that it is excessive.

Mr. A. B. Salem.—There may be a transaction. The interest may be at 12 per cent and if the court does not decide that it is not excessive it cannot be taken as excessive.

Mr. K. Achyuta Menon.—That is, anything in excess of 12 per cent and which the court considers to be excessive. In this section "Excessive" means "any rate in excess of 12 per cent and in excess of that which the court deems to be reasonable."

Mr. V. K. Kochunni Menon.—In that case, probably for allowing 12% the court must think that it is reasonable. It is better to add another sub-clause to it.

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Mr. A. B. Salem.—May I suggest that "interest up to and 12% will not be excessive". Add it as an explanation to 2 (a).

Mr. N. Padmanabha Menon.—It cannot be an explanation.

Mr. A. B. Salem.—Then put it in this way. "Provided that no rate shall be considered excessive if it is not in excess of 12% per annum".

Mr. V. K. Kochunni Menon.—"Above" should be substituted for "In excessive of".

President.—The question before the House is that to section 3 clause 2 a a new proviso be added as follows:—"Provided that no rate shall be considered excessive if it is not above 12%."

(*The amendment was put to the vote and carried*).

President.—You withdraw your amendment, Mr. Kochunni Menon?

Mr. V. K. Kochunni Menon.—I withdraw my amendment regarding the deletion of clause c.

President.—The next amendment is Clause 3, section 5 by Mr. Kunjunni Raja.

Mr. C. A. Kunjunni Raja.—I don't move that.

Hence the following amendment was considered withdrawn:—

"Insert the words 'or the powers of the Court of Insolvency under Regulation VII of 1098' after the words 'jurisdiction of the Court' at the end of 3 (5)."

President.—Then this Bill may be passed at the meeting of to-morrow. You can move it.

Srimati T. Madhavi Amma.—I move that the Bill as amended may be passed at the meeting of to-morrow.

Mr. N. Padmanabha Menon.—I second it.

President.—The question before the House is that the "Usurious Loans Bill" as amended by the House may be passed at the meeting of to-morrow.

(*The question was put to the vote and carried*).

At this stage the House rose for lunch at 1·57 p. m. and reassembled at 3 p. m. under the presidentship of M. R. Ry. V. K. Kochunni Menon Avl., B. A., B. L., M. L. C. (Ernakulam), the Deputy President.

Adjournment Motions.

(i) *The appointment of an official Chairman to the Mattancheri Municipality.*

Deputy President.—We shall take into consideration the most urgent adjournment motions.

Dr. A. G. Menon.—I beg to withdraw; I am not going to press.

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